

1 *Based on records produced to law enforcement pursuant to grand jury*
 2 *subpoenas served upon phone companies and financial institutions, my*
 3 *discussions with other law enforcement agents, my training and experience,*
 4 *and my participation in this investigation, I have learned that the SUBJECT*
 5 *PREMISES are listed as Target Subject-1's address on Target Subject-1's*
 6 *driver's license and bank records. Target Subject-1 lives with his wife and*
two children at the SUBJECT PREMISES. Surveillance was conducted on
the SUBJECT PREMISES on multiple days in May 2024. As recently as
May 21, 2024, the Target Subject-1 was viewed at the SUBJECT
PREMISES.

7 This affidavit alone is sufficient to establish Mr. Curcio's possessory and privacy interests
 8 in the residence searched.

9 ***B. Mr. Curcio's Affidavit Also Establishes Standing.***

10 An affidavit from Mr. Curcio is attached as Appendix A to this reply brief. It also
 11 establishes that Mr. Curcio had a possessory and privacy interest in the residence searched
 12 and the items seized.
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16 **II. THE AFFIDAVIT DOES NOT ESTABLISH PROBABLE CAUSE.**

17 ***A. The Affidavit is Devoid of the Most Basic Information Regarding the***
 18 ***Source of Information and any Source's Basis of Knowledge.***

19 The Government's response fails to address the most fundamental problem with SA
 20 Campbell's affidavit – it is devoid of any description of the source of facts it alleges, or how
 21 any source acquired the knowledge of the facts asserted. The problem is not just the
 22 multiple-choice listing of the sources, it is the absence of any description as to how even SA
 23 Campbell had a “basis of knowledge” for conclusory claims about Mr. Curcio. The fact that
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1 some of those claims are just demonstrably false may provide a clue as to why no sourcing
2 is provided.

3 The Government argues that the defense is reading the affidavit in a “hyper
4 technical” manner “unsupported by law or reason.” Government Response, p. 26. This, like
5 most of the Government’s argument on the deficiencies of the affidavit, is heavy on
6 hyperbole and lacking in any meaningful response to the very basic failures of the affidavit.

7 The Government response does not identify which among the source options applies
8 to any specific factual assertion in the affidavit. It appears to be the Government’s position
9 that a search warrant affidavit need only identify *potential* sources of information and no
10 description as to how those sources obtained the information or why it is credible. The
11 argument about Paragraph 8 of the affidavit provides an example.

12 Paragraph 8 of the search warrant affidavit contains a conclusory allegation that Mr.
13 Curcio ordered items from an “online marketplace” and that the items ordered are “needed
14 to create forged card cases and labels.” ECR 32, appendix A. The source of the claim that
15 these items were ordered is:
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17 *Based on purchase records produced to law enforcement pursuant to a*
18 *grand jury subpoena served upon an online marketplace, my discussions*
19 *with other law enforcement agents, my training and experience, and my*
20 *participation in this investigation.*

21 The “online marketplace” is not identified or described in any way that would allow
22 the magistrate to evaluate the efficacy of their “purchase records.” The “discussions
23 with other law enforcement agents” does not identify who the agents are, or what was
24 discussed. And SA Campbell’s “participation in this investigation”, insofar as this
25 claim is concerned, is not described at all. This is not “hyper technical” analysis, it is

1 the most rudimentary foundation for a magistrate to be able to evaluate the claims
2 made. But that is only one of the problems with paragraph 8.

3 Paragraph 8 does not just describe items claimed to have been ordered by Mr.
4 Curcio, it characterizes them as being “needed to create forged cases and labels.” This
5 claim is made without any description of the how such items could have been used “to
6 create forged cases and labels” nor is there any information that would allow the
7 magistrate to conclude that such tools could have been used in any way in furtherance
8 of the crime under investigation.
9

10 This pattern is repeated throughout the affidavit. The agent lists multiple
11 sources of information and then does not identify them or why they are reliable. The
12 agent uses vague generalizations like “my participation in this investigation” without
13 any description of what that means, or how it provides a basis to believe the asserted
14 fact is true. The New Jersey Card Show claims provides another good example.
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16 In paragraph 9, SA Campbell sets forth his source information, this time
17 replacing “online marketplace” records with “flight records obtained by law
18 enforcement through a database search” and then repeating as other sources “my
19 discussions with other law enforcement agents, my training and experience, and my
20 participation in this investigation.” From this he asks the magistrate to conclude that
21 Mr. Curcio flew to New Jersey, attended a card show, and was removed from the card
22 show for trying to sell fraudulent items. The falsity of the card show claim will be
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1 litigated in the *Franks* motion, but on its face the information provided is grossly
2 insufficient.

3 Given the pervasive nature of information stored (and created) in various digital
4 storage locations, a general reference to a “database” without any identifying
5 information about what that database is, who created in, and why its records are
6 reliable, provides the magistrate with no basis to evaluate the accuracy or reliability of
7 the data – in this case the claim Mr. Curcio flew to New Jersey. As for the claim of
8 what happened at the card show, the affidavit provides no information as to who
9 related the claim, how they obtained the information, or why they are a reliable source.
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12 ***B. The Government Argument Ignores the Content of the Affidavit and***
13 ***the Requirements of Probable Cause.***

14 The Government contends the defense is demanding “granular detail” in the
15 affidavit. It is not. What the *constitution* demands is that searches of a residence be
16 undertaken only under the authority of a warrant, and that a magistrate issuing such a
17 warrant be provided with facts, not just conclusions, and with information about where
18 the facts were obtained and why they are reliable. *See Illinois v. Gates*, 462 U.S. 213, 239,
19 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983) (the “totality of circumstances” must present the
20 magistrate with “[s]ufficient information ... to allow that official” to make the necessary
21 determinations; “his action cannot be a mere ratification of the bare conclusions of others.”).
22

23 What the Government urges here is a “ratification of the conclusions of others” but
24 without even identifying who the “others” might be or telling us anything about the
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1 underpinnings of the conclusions. The Government casts as “hyper technical analysis”
2 engaging in a very basic evaluation of the affidavit under legal precedent that has been in
3 place for decades.

4 The Government confuses the concept of a “commonsense reading” of an affidavit
5 with just accepting anything the affiant sets forth, regardless of the paucity of information to
6 allow the magistrate to evaluate the “totality of the circumstances.” That totality analysis
7 requires, even for something the affiant asserts to have personal knowledge about, a
8 description of *how* the affiant gained that knowledge, and *why* it supports the conclusion the
9 affiant is making. This affidavit contains neither on any allegation nor about any source –
10 while also failing to ever specify an actual source.

11 It is of note that the Government has not cited any legal precedent for the contention
12 that a search warrant affidavit can list multiple possible sources of information, provide no
13 information about what any one source provided, and no information about how the source
14 obtained the information, and yet still survive a totality of the circumstances analysis. That is
15 because there is no such precedent, and the affidavit submitted in this case fails the most basic
16 requirements to establish probable cause for the issuance of the search warrant for Mr.
17 Curcio’s residence.

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19 ***C. Probable Cause to Believe Evidence Was Inside the Redmond Residence***
20 ***Was Stale.***

21 The Government strains in its response to identify some event close in time to May 23,
22 2024, to address the staleness problem with the information in SA Campbell’s affidavit.
23 They identify three events from the affidavit to support the argument – the mailing of a card
24 to the address in September of 2023, the claim of fraudulent card selling activity in April 2024
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1 at a card show, and the shipping of drill bits to the residence between in February 2024. All
2 these factual claims suffer from the absence of any information in the affidavit about who
3 provided the claimed information or how the information was acquired. But even setting
4 aside that fundamental problem, the Government's argument cannot overcome the staleness
5 issue.

6 There is nothing in the affidavit about "drill bits used for engraving" playing any role
7 in the claimed fraudulent scheme being investigated. The other items ordered – what the
8 Government calls "forgery tools" – also are not described as having been employed as part of
9 the alleged scheme. In addition, the affidavit does not describe when any of them were
10 ordered with specificity – beyond the drill bits in February 2024. Probable cause to search the
11 residence in May of 2024 is not supported by the "drill bits" order – even if there was
12 information to allow the magistrate to credit that claim.

13 The claim of a card being mailed to the address eight months prior to the search
14 warrant application does not solve the staleness problem either. The affidavit does not
15 provide any factual basis to believe the card would still be at the address to which it was
16 mailed. This is also of little value given the complete absence of any factual basis for the
17 claim that someone was "a victim" – the affidavit just states that someone was a victim, with
18 nothing about how they were victimized, who they are, and how this claimed victimization
19 was communicated to investigators or discovered. It's a conclusory allegation with no
20 support.
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22 That the Government relies upon the card show story from April of 2024 – and
23 continues to repeat a description of it that is known to be false – has its own concerns. But in
24 this context, we again have SA Campbell offering a claimed fact – that Curcio was at a card
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1 show in April 2024 and was “removed from the show for having fraudulent cards” – with no
2 description of the source of this claim. It cannot be used to establish some fraudulent activity
3 closer in time to May 23, 2024, because the complete absence of information renders it
4 useless in the probable cause determination as to any part of the probable cause analysis,
5 including staleness.

6 III. CONCLUSION

7 The search of Mr. Curcio’s residence on May 23, 2024, was performed pursuant to a
8 search warrant that was issued in the absence of probable cause to believe a crime had been
9 committed and that evidence could be found in the residence. The affidavit in support of the
10 search warrant presented no basis to evaluate the totality of the circumstances underpinning
11 the conclusory claims of the affiant. Any evidence gathered during the search must be
12 suppressed.

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14 I certify that this memorandum contains 2013 words in compliance with local criminal rules.

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16 Dated this 25th day of March 2025.

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18
19 Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

AUSA Kingdar Prussein and AUSA David Felton

U.S. Attorney's Office for Southern District of New York


/s Jeffrey Kradel

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1 4. On May 23, 2024, I did not consent to the entry into that residence by federal
2 agents or anyone else;

3 I certify under penalty of perjury the foregoing is true and correct to the best of my
4 knowledge.

5 Subscribed and sworn this 24th day of March, 2025.
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9 Anthony Curcio
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DECLARATION OF ANTHONY CURCIO

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